



**SEMINOLE COUNTY
PUBLIC SCHOOLS**

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April 18, 2013,

Mike Blackburn, Inspector General
Florida Department of Education
Office of Inspector General
325 West Gaines Street, Suite 1201
Tallahassee, FL 32399

RE: Florida Department of Education, Office of Inspector General Investigation (OIG)
Case # 2012-003

Dear Mr. Blackburn:

Walt Griffin, on behalf of the School Board of Seminole County, Florida (School Board), received the Investigative Report regarding the above-referenced case from your office on March 11, 2013, and was graciously provided an extension to provide a response to the Investigative Report through April 18, 2013. A number of School Board representatives with knowledge of the issues had an opportunity to review relevant portions of the Investigative Report. The responses provided herein include their thoughts and/or concerns regarding the report. As a starting point, the summary of the allegations in the letter dated March 11, 2013, are narrower than the complaint that was forwarded to the OIG.

On February 23, 2012, School Board representatives provided information to the OIG that, starting back in the 2009-2010 school year, there were concerns regarding K12 Florida, LLC (K12) teacher staffing practices. *See Investigative Report, Exhibit A.* Further, a number of emails suggested that during the 2009-2010 school year K12 representatives may have been utilizing a practice whereby the teachers being reported to the School Board were not the same teachers who were actually teaching the School Board's students in the Seminole Virtual Instruction Program (SVIP). *See Investigative Report, Exhibit A and Exhibit 3 attached thereto.* School Board representatives also provided information demonstrating that during the 2010-2011 school year, K12's management requested that K12 teacher, Amy Capelle (Capelle), verify that she was the teacher for students that Capelle stated were not her students. *See Investigative Report, Exhibit A and Exhibit 4 attached thereto.* When the School Board's representatives became aware of this issue during the 2011-2012 school year, the information was forwarded to the OIG raising the concern that "[s]ince K12 uses the same teachers across the state in virtual instruction programs, this issue may reach far beyond the borders of Seminole County." *See Investigative Report, Exhibit A.*¹ This concern

¹ Indeed, during Diane Lewis's (Lewis) interview on October 23, 2012, she advised the investigators that, upon information and belief, K12 may have erroneously reported Capelle as teaching Algebra to students in St. Johns County. When the investigator asked Capelle about this issue, she advised that she had not taught Algebra as a K12 teacher. Please see the document that is attached hereto as **Exhibit 1** wherein Capelle was included as a K12 Algebra teacher for St. Johns County during the

as reinforced when, at the request of the OIG, the School Board's representatives contacted parents of Seminole County students and discovered that, in many cases, there were discrepancies between the teachers that K12 reported as the students' teachers and the individuals that the parents reported as the students' teachers. *See Investigative Report, Exhibit E.*

Notwithstanding the above, the OIG, without advising the School Board, narrowed the investigation to the 2010/2011 school year. *See Investigative Report*, at page 11, fn 4. Moreover, in some cases, the investigation was narrowed to a short period in the 2010/2011 school year. *See investigative Report, Exhibits J and M.* Further, the investigation focused only on Seminole County when, if a state wide provider was utilizing a certain staffing practice, it is reasonable to expect that evidence of that practice may be found in other counties where that provider operates. For these reasons, the narrow focus of this investigation should be reconsidered. As permitted by law, the School Board will provide access to any individuals, systems, and/or documents that the OIG believes would be helpful in conducting a complete and comprehensive investigation.

Individual responses to specific portions of the Investigative Report are included below:

1. Capelle reviewed the description of "K12's teaching model for the 2010-2011 school year" that is on page 2 of the Investigative Report. Capelle's experience as a K12 teacher during the 2010-2011 school year differs from the referenced "teaching model." Capelle advises that K12 representatives did not state to her that she was the "homeroom" teacher for certain students and the "subject matter" teacher for other students. Instead, Capelle was advised that she had approximately 70-75 students and she was the teacher for those students in certain of the following subject areas: Math, Science, Social Studies, Language Arts, and in some cases, Reading. K12 representatives did not advise Capelle that she was required to send her students to a "subject matter" expert for anything. Capelle has a copy of her K12 generated student roster for the period covering January 2011 through June 2011 and will produce it upon request from the OIG.
2. On page 2 of the Investigative Report, the first sentence of paragraph three in the Introduction Section should be revised as follows: "On April 17, 2012, Lewis provided the OIG with the additional information regarding the accuracy of class roles of K12 teachers and students as requested by the OIG." **Response: The underlined language should be added to make clear that Lewis was acting in response to a request for information made by the OIG.**

2010/2011 school year. Capelle has confirmed that she did not teach any students in St. Johns County while employed by K12 during the 2010/2011 school year.

3. On page 2 of the Investigative Report, it states: "Walt Griffon, Executive Director for High Schools, SCPS, responded to K12 that teachers working with students "need to be certified and fingerprinted." **Response: Mr. Griffin responded to Lewis who then provided that information to K12.**
4. On page 3 of the Investigative Report, the first sentence of paragraph two should read: "On December 3, 2012, in response to questions during an interview, Lewis provided a statement and supporting documentation listing K12 teachers she believed were teaching out of field." **Response: The underlined language should be added to make clear that Lewis was being responsive to information that the investigator inquired about during the interview of Lewis in October 2012.**
5. On page 6 of the Investigative Report, it states: "When asked specifically if K12 used noncertified teachers, Lewis responded that they did. However, she was unable to provide any names of non-certified teachers used by K12." **Response: Lewis understood the investigator's question to be related to teachers reported to SCPS as teachers of students in the SVIP that were not certified to teach the subjects that K12 reported them as teaching. Thus, she provided the investigator with the document that is Exhibit L to the Investigative Report. Additionally, please see the information regarding Jason Marin and Megan LaDouceur discussed below.**
6. On page 8 of the Investigative Report, it states: "Capelle said she told Tuchman that she would not sign her student class roll, and subsequently while she was on maternity leave, Tuchman signed it." **Response: Capelle believes that this sentence is confusing as she did not state that Gila Tuchman (Tuchman) signed her class roll while she was on maternity leave. Capelle did state to Tuchman that she would not sign the class roll forwarded to her because it included students that were not her students. Specifically, Capelle advised Tuchman on at least two different occasions that she would not sign the class roll as it included students that she did not teach, the last occasion being on February 28, 2011. Capelle was on maternity leave from February 25, 2011 through March 4, 2011. Upon Capelle's return to work, Tuchman did not say anything to Capelle about the class roll or ask Capelle to sign a corrected class roll.**

Capelle did not become aware that Tuchman had signed her class roll until after she resigned from K12. Capelle would have signed a correct class roll, even while on leave, as she stated in her email to Samantha Gilormini (Gilormini) and Tuchman on February 28, 2012. Significantly, Capelle's leave began on February 25, 2011, and three days later she advised Gilormini and Tuchman that she was "happy to sign for the seven Seminole students who are my students." Instead,

of having Capelle sign for the seven Seminole students, on March 2, 2011, K12's representative forwarded the incorrect Capelle roll signed by Tuchman to the School Board.

7. On page 9 of the Investigative Report, it states: "Capelle said she had access to the K12 Total View System while working as a teacher for K12, but she only had access to the seven students she was responsible for teaching. Capelle said she did not have access to any of the other students that were on her student class roll, that only K12 administrator would have that sort of access."

Response: Capelle does not believe that this paragraph is clear. Capelle recalls that she clarified that she had access to the K12 Total View System for all of the approximately seventy-five (75) students K12 assigned to her, including the seven Seminole County students. Capelle wants to make clear that she did not have access in the Total View system to students that were not assigned to her by K12.

8. Page 9 of the Investigative Report refers to Dominique Ballacchino as an "Instructor." Ms. Ballacchino is not an Instructor. Ms. Ballacchino was a FTE Clerk for the SVIP and is currently a Support Trainer in the Information Services Department for the School Board.

9. On page 11 of the Investigative Report, it states: "According to Creach, she had no students in Florida but was listed on the spreadsheet as having students she never taught. When asked who actually taught the students reported by K12, Creach responded that she was not sure, but believed the actual teacher was Sara Ghorayeb. **Response: Did the OIG follow-up on this information with K12 administrators and/or Ms. Ghorayeb?**

10. On page 11 of the Investigative Report, it states: "According to Creach, K12 was using the term "teacher of record" but they were not using the term "teacher of class." **Response: The statement that K12 was not using the term "teacher of class" seems inconsistent with the email that Creach authored on October 29, 2009 that stated "[d]id you want the teacher of the class to sign or the teacher of record listed on the tab?" See Investigative Report, Exhibit A. Did the investigator ask Creach about this inconsistency?**

11. On page 11, at footnote 4, the Investigative Report states: "The OIG narrowed this investigation to the 2010/2011 school year due to the extent of evidence provided by Lewis and Capelle." **Response: The School Board believes that this narrowing of the investigation was inappropriate as explained above.**

12. On page 12 of the Investigative Report, it states: "Sukhia explained that Capelle was employed as a part-time teacher from October through December 2010. She became a full-time employee in January 2011 and K12 planned to assign a greater student load to Capelle. He said Capelle, however, was pregnant and the "transition of Amy's remaining 28 students never occurred due to her maternity leave." Response: Capelle questions the accuracy of the reported statement of Mr. Sukhia. Capelle was associated with K12 Educator Group ("KEG") from approximately November 2010 through December 2010. Capelle was not assigned any students and did not receive any compensation while she was associated with KEG. In January 2011, Capelle became an employee of K12, and was assigned a full load of students—approximately 70 to 75—on or about January 18, 2011. Capelle was not advised, either prior to her pre-planned two week maternity leave, or after her return to work on March 4, 2011, that there had been or was a possibility of her receiving additional students. Indeed, Capelle was told that K12 liked to keep the number of students assigned to a teacher to approximately 75, and she already had a full roster of students starting in January 2011.
13. On page 13 of the Investigative Report, it states: "The archived data of communication notes was submitted by K12, Inc., the company against whom the complaint was filed." Response: The complaint was filed against K12 Florida, LLC.
14. On page 13 of the Investigative Report, it states: "There is no evidence to substantiate that uncertified teachers were used for the K12 virtual program in SCPS. The OIG confirmed that all teachers identified in the data were certified." Response: Although this statement is based on a review of only the 2010/2011 information, it still should have included information regarding Megan LaDouceur (LaDouceur). LaDouceur was reported as teaching students in the 2010-2011 school year. However, LaDouceur's Florida certification was revoked during the school year and, according to documents provided by K12, she continued to teach students after her Florida certificate was revoked.
15. On page 14 of the Investigative Report, it states: "Betoni said the 28 student enrollments may have been her [Capelle] homeroom students, but she also had the other students assigned to her who she was responsible for regarding courses that those students could go to if they needed support." Response: Capelle asserts that this statement is not consistent with her employment as a teacher with K12. Capelle had responsibility for approximately seventy (70) to seventy-five (75) students, only seven of which were Seminole County students. It was never mentioned to Capelle that she would be providing support for any other students and/or courses.

16. On page 14 of the Investigative Report, it states: "Betoni remarked that it was not an intentional act, it appeared to be an error that they could fix themselves without involving Capelle." **Response: Betoni's statement is contradicted by the email documentation related to Capelle's class roll which makes clear that it was not an "error" that Tuchman signed the Capelle class roll that included students Capelle had advised Tuchman she had not taught.**

- On February 8, 2011, Gilormini provided the School Board's representative with updated K12 teacher and student information. **See Exhibit 2, at pg. 1.**
- From the updated information provided by Gilormini, any need changes were made in the School Board's student database and class rolls were generated for FTE purposes. The class rolls, which indicated teacher, course, and student names, were forwarded to K12 to be verified and signed by the applicable teachers. On February 15, 2011, Gilormini forwarded the class rolls to the applicable teachers. **See Exhibit 2, at pg. 1.** Gilormini advised the teachers that "[i]n the virtual setting any teacher can teach the students the subjects but the districts like to have certified teachers in each subject. So if you see your name next to a student that might not be yours it's because you were qualified to teach that subject and we needed to put your name there." **See Exhibit 2, at pg. 1.**
- On the same day that Capelle received Gilormini's email dated February 15, 2011, she requested that Tuchman give her a call to discuss the email as she had "reservations." **See Exhibit 2, at pg. 2.**
- Capelle told Tuchman that she could not sign a roll for students that she had not taught. On the afternoon of February 15, 2011, Tuchman advised Capelle that she "spoke with Patty [Betoni] and she will meet Samantha [Gilormini] to update this." **See Exhibit 2, at pg. 2.**
- On February 18, 2011, K12 employee Lori Crunden (Crunden) forwarded a revised K12 course list to the School Board that removed all but seven (7) students from Capelle's list of students. Crunden wrote that the revised class list was "effective" on

"02/17/11," stated that she had spoken with "Sam," and advised that K12 would need revised rolls. See Exhibit 2, at pg. 3.

- The deadline for Survey 3 data was prior to the effective date for the K12 changes. Thus, on February 22, 2011, Lewis advised Crunden and Betoni that "if the changes aren't effective until after Survey 3 date certain, then the [forwarded] class rolls [wouldn't] change." See Exhibit 2, at pg. 3.
- On February 22, 2011, Crunden thanked Lewis and advised that K12 would "get those signed forms back" soon. See Exhibit 2, at pg. 4.
- On February 25, 2011, Gilormini again requested that Capelle sign the Seminole class roll that included students that Capelle had previously explained were not her students. See Exhibit 2, at pg. 4.
- On February 28, 2011, Capelle sent an email to Gilormini and Tuchman stating that "I cannot sign off on students who are not my actual students. I am happy to sign for the seven Seminole students who are my students, but I cannot sign as the teacher of record for students who I do not know..." See Exhibit 2, at pg. 5.
- On March 2, 2011, following the second unsuccessful request to Capelle to sign the erroneous class roll, Tuchman signed the erroneous Capelle roll and Gilormini sent it to the School Board. See Exhibit 2, at pg. 5.

17. On page 15 of the Investigative Report, it states: "Tuchman explained that as an elementary teacher, Capelle could have multiple enrollments for each student, and there may have been students assigned to her she did not recognize by name because of the way K12 administrators 'divided up the tasks for a subject specific teacher.'" **Response: Capelle asserts that this statement is not consistent with her employment as a teacher with K12. Capelle does not believe that you can teach students when you are unaware of the existence of those students. Capelle recognized all of her approximately seventy (70) to seventy-five (75) students, and had access to her students on K12's Total View System to confirm their existence at the time the request was made to verify that she had taught the students.**

18. On page 15 of the Investigative Report, it states: "She said it is also possible that Capelle would not recognize all of the students because they were assigned to her on an as needed basis with little or no direct contact." **Response: Capelle asserts that this statement is not consistent with her employment as a teacher with K12. Capelle recognized all of her approximately seventy (70) to seventy-five (75) students. Indeed, one of Capelle's duties as a K12 teacher was to have a conference monthly with each student and parent. Capelle was never advised by any K12 representative that she would be assigned students on an as needed basis.**
19. On page 17 of the Investigative Report, it states: "Sean Millard...provided the OIG with a list of all K12 teachers, the courses they taught, and the students associated with the teachers and courses (*Exhibit N*). The list is the accumulated information from four Survey Reports of all courses taught for the 2010/2011 academic school year reported to FDOE from SCPS." **Response: Exhibit N does not appear to be a complete list. For example, pages 1, 2, 10 and 11 have courses with no teachers' names (those teachers should be Bridget White and Adriana Hoyle). Also, LaDouceur and Brian Hayden are not included on Exhibit N. Moreover, not all of Capelle's courses are included on Exhibit N.**
20. On page 19 of the Investigative Report, it states: "Tuchman said she did not recall having any conversations with Capelle or any other teachers about them questioning the additional students on their student class roll." **Response: This statement contradicts the emails exchanged between Tuchman and Capelle regarding Capelle's class roll. Did the investigator question Tuchman regarding this contradiction?**
21. On page 19 of the Investigative Report, it states: "When asked about her signing Capelle's February 2011 student class roll, Tuchman said she signed it "stating that those students were in attendance during that period of time," and not necessarily sitting in the actual class, but they were "taught by a certified teacher," and "that is my understanding of that document." **Response: According to this statement, Tuchman should be able to identify the teacher that actually taught the students on Capelle's erroneous class roll. Tuchman was informed by Capelle that only 7 of the students on the roll were Capelle's students. Capelle provided that information at least twice to Tuchman prior to the time that Capelle's class roll was submitted to the School Board on March 2, 2011.**
22. On page 19 of the Investigative Report, it states: "Tuchman again commented that in Capelle's case, as a homeroom teacher, she may not have recognized all of her

additional students assigned to her for specific subject instruction because there may not have been any direct contact with them.” **Response:** Capelle asserts that this statement is not consistent with her employment with K12. According to Capelle, she was assigned approximately 70-75 students. The students were enrolled in multiple K12 affiliated virtual instruction programs in Florida, but she was aware of each of her assigned students and the responsibility of meeting with each of her assigned students on a monthly basis. Moreover, at the time that Capelle received the roll, she had access to the Total View System for all of her K12 students, and could confirm the existence of her students. Further, according to Capelle, at no time after receiving her emails wherein she refused to sign the Seminole class roll did Tuchman contact her to explain that she may have “additional students” who showed up on her class rolls for any reason.

23. On page 20 of the Investigative Report, it states: She further commented she signed Capelle’s student class roll because Capelle “was not available, she was on maternity leave at that time.” **Response:** This statement is contradicted by Capelle’s email to Gilormini and Tuchman on February 28, 2011, three days after Capelle’s maternity leave began, wherein Capelle stated that she was “happy to sign for the seven Seminole students who are my students, but I cannot sign as the teacher of record for students who I do not know.” Clearly, even after she was officially on maternity leave, Capelle was available to sign a corrected roll. Instead, Tuchman signed the incorrect roll and submitted it to the School Board on March 2, 2011.

Response to the analysis of Exhibits L and M

As a follow-up to Mr. Goodson’s interview with Lewis on October 22, 2012, Lewis provided the OIG with the document that is Exhibit L, which included lists for three school years of teachers reported by K12 as teachers for courses, but who were not certified to teach the subjects that they were reported by K12 as teaching. This information was not limited to the 2010/2011 school year and was not limited to the Survey 3 time frame for the 2010/2011 school year. Why was the analysis of the information in Exhibit L to the report limited to only the class rolls for Survey 3 for the 2010/2011 school year?

Further, the report states 17% of the entries (8 of 47) included on Exhibit M contained no evidence of direct instruction because the students either withdrew or were not enrolled at all. However, according to documentation provided to the School Board by K12, the four referenced students (2 classes for each student) were enrolled during the 2010/2011 school year in classes taught by K12 teachers that were not certified to teach those courses. The fact that the students withdrew at some time during the school year does not change that fact. The School Board addressed each of the “withdrawal” issues in the document

attached hereto as **Exhibit 3**. The responses provided regarding each of the data points included in Exhibit 3 are incorporated herein.

Additionally, the School Board's response to the OIG's statement that "49% of the entries (23 of 47) provided sufficient evidence that direct instruction was provided by a teacher holding the appropriate certificate for that subject" is also addressed in **Exhibit 3**. In many cases, it appears that the OIG accepted "evidence" from K12 that: (1) directly conflicts with the class rolls signed by K12; (2) conflicts with the OIG's findings in Exhibit J; and (3) relies upon the presumption that an appropriately certified teacher that has minimal and/or incidental contact with a student is sufficient.

However, what the K12 evidence does not demonstrate is that the students referenced in Exhibits L and M were enrolled in classes taught by teachers holding the appropriate certifications to teach those classes. Thus, in many cases, the OIG's conclusions conflict with the statement in the report that "[t]he course teacher is responsible for the curriculum, assignments, and tracking the progress of the student in the course. These duties are not delegable..." See *Investigative Report*, at pg. 20. Where is the evidence that for 49% of the entries analyzed (23 of the 47) by the OIG, the appropriately certified teacher was responsible for the curriculum, assignments, and tracking of the progress of the student in the applicable course?

Additional concerns regarding the investigation

1. The School Board is concerned that the OIG did not interview a number of K12 employees (or former employees) that could provide relevant information as to whether K12 utilized a "teacher of record" and "teacher of class" practice regarding Florida students. Specifically, Gilormini, the author of the email stating that "[i]n the virtual setting any teacher can teach the students the subjects but the districts like to have certified teachers in each subject. So if you see your name next to a student that might not be yours it's because you were qualified to teach that subject and we needed to put your name there," should be interviewed by the OIG.

Moreover, Julie Frien is identified by Laura Creach as the person that she first heard use the term "teacher of record." See *Investigative Report*, at pg. 11. Stephanie Fyfe was the author of the October 2009 email addressed to "Florida teachers" that included five individuals who did not have a Florida teaching certificate. See *Investigative Report, Exhibit A*. Ms. Frien and Ms. Fyfe should be interviewed to determine what, if any, information they can provide on the "teacher of record" vs. "teacher of class" question.

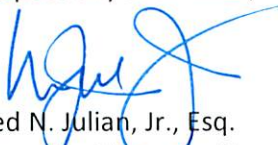
2. In regards to the allegation 1, the School Board disagrees with the conclusion that "[t]here is no evidence that K12, the virtual school provider for the Seminole Virtual

Instruction Program, used teachers that were not certified in the State of Florida” for the following reasons:

- A. Megan LaDouceur had her Florida educator’s certificate revoked during the 2010-2011 school year. However, K12 reported her to the School Board as a teacher from January 2011 through the end of the 10-11 school year. (See **Exhibit 4**)
 - B. Jason Marin was reported by K12 to the School Board as teaching Chemistry in the 2011/2012 school year. Mr. Marin was never issued a Florida teaching certificate. (See **Exhibit 5**)
 - C. On October 28, 2009, K12’s representative, Stephanie Fyfe, sent an email that began “Hi Florida teachers” and forwarded Seminole County’s class rolls to seven individuals. *See Investigative Report, Exhibit A.* Of the seven individuals listed in that email, the FDOE teacher database indicates that five of those individuals have not been issued a Florida teaching certificate (Druscilla Ciotti, Lisa Chaput, Jada Phelps, Max Sigander, and Jessi Sigander). (See **Exhibit 6**) The School Board received a signed roll from Drusilla Ciotti indicating that she taught Seminole County students during the 2009-2010 school year. (See **Exhibit 7**) At the time, the School Board’s representatives questioned K12 regarding these teachers and apparently accepted that an error had been made. However, in light of the subsequent circumstances that gave rise to this investigation, the School Board believes that whether these individuals ever actually taught Florida students is something that should be determined by the OIG.
3. The School Board is concerned that the OIG did not investigate K12’s practices in other Florida districts, especially in light of the information shared by Lewis and Capelle about St. Johns County during the October 2012 interviews and the results of the Auditor General’s Operational Audit, Report Number 2013-094, which indicated that K12 employed a teacher in Volusia County’s VIP program who did not hold a Florida teaching certificate.

The School Board’s representatives look forward to answering any questions regarding this response.

Respectfully submitted,


Ned N. Julian, Jr., Esq.
Executive Director of Legal Services